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CHARLES ELMORE

In the Supreme Court of the United States

OCTOBER TERM, 1930

No. 512

UNITED STATES OF AMERICA

vs.

ROBERT K. MALCOLM

ON CERTIFICATE FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT

MOTION TO ADVANCE AND TO HAVE BRIEF CONSIDERED IN OTHER CASES

KINGMAN BREWSTER,
JAMES S. Y. IVINS,
Counsel for Robert K. Malcolm.

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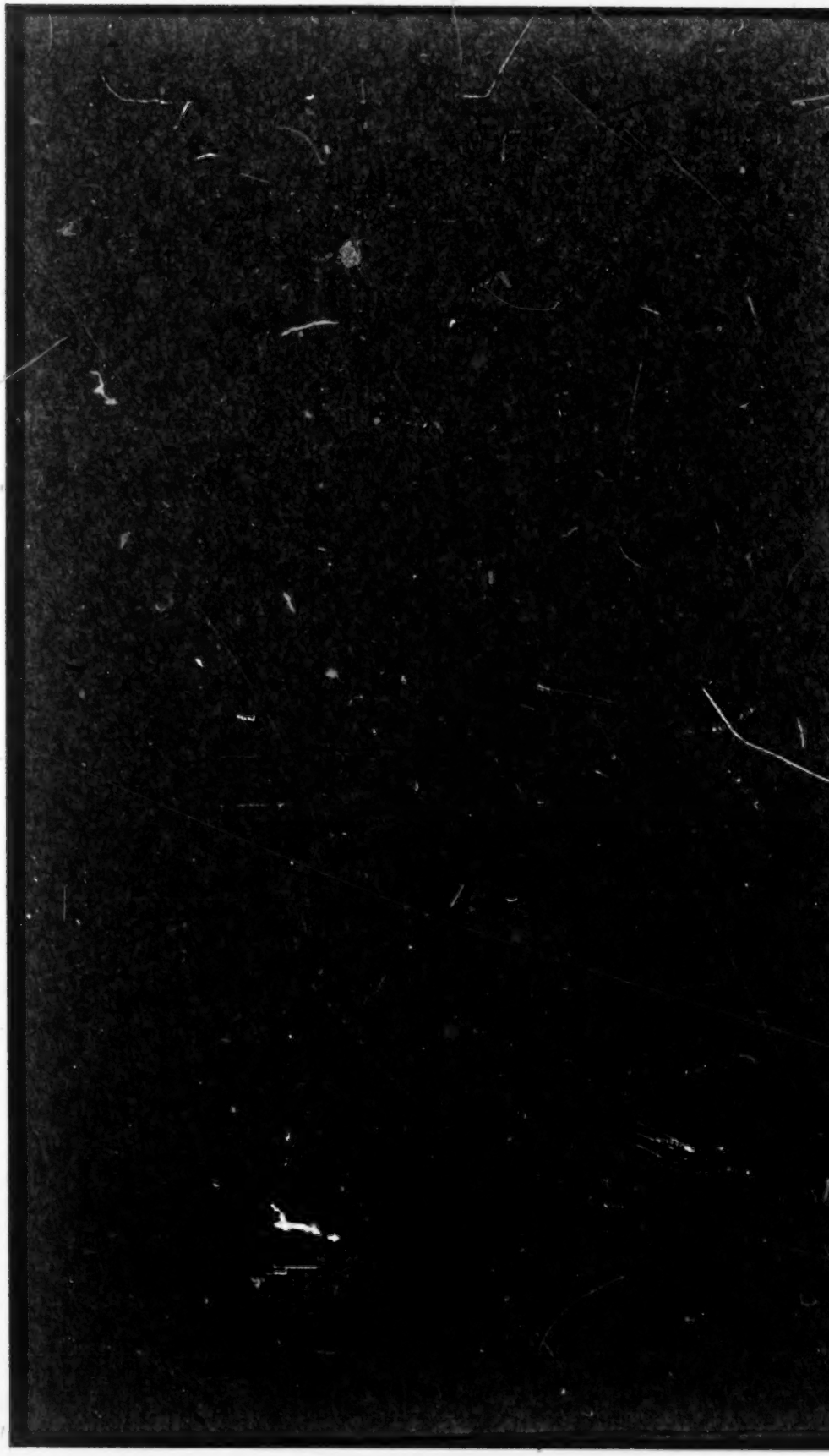

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To the Honorable the Chief Justice and Associate Justices of the Supreme Court:

Counsel for Robert K. Malcolm, above-named, respectfully show:

This case, on certificate from the Circuit Court of Appeals for the Ninth Circuit, is a test case involving the application of the Federal income tax law to marital communities in the State of California under amendments to California statutes not applicable in *United States* v. *Robbins*, 269 U. S. 315. The question is similar to those presented in *Poe* v. *Seaborn*, No. 15, *Goodell* v. *Koch*, No. 106, *Hopkins* v. *Bacon*, No. 84, and *Bender* v. *Pfaff*, No. 86 (involving marital communities in Washington, Arizona, Texas and Louisiana, respectively), which were heard by this Court on October 21 and 22, 1930.

The four named cases were advanced by order of this Court entered May 26, 1930, on the motion of the Solicitor General, which pointed out that "this question is one of

far-reaching importance to the taxpayers in each of these states as well as to the Government and it is desirable that the question should be settled at the earliest practicable date." The same is equally true of the present case.

The brief for the taxpayer herein is already on file in this Court and contains arguments applicable to all the community property cases the Court's treatment of which in the cases from Washington, Arizona, Texas and Louisiana may materially affect its action in this case. Accordingly, it is respectfully

MOVED that this cause be advanced for hearing to some day convenient to the Court prior to the end of 1930, and it is further respectfully

MOVED that in the consideration of *Poe* v. *Seaborn*, No. 15, *Goodell* v. *Koch*, No. 106, *Hopkins* v. *Bacon*, No. 84, and *Bender* v. *Pfaff*, No. 86, this Court consider the said brief filed on behalf of Robert K. Malcolm in this cause.

KINGMAN BREWSTER,
JAMES S. Y. IVINS,
Counsel for Robert K. Malcolm.

November 3, 1930.